UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,671	01/18/2001	Jeffrey Scott Eder		5378

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EXAMINER
RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/761,671	EDER, JEFFREY SCOTT
Office Action Summary	Examiner	Art Unit	
	Yehdega Retta	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 July 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>69-100</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>69-100</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/12/05, 7/27/05</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is responsive to amendment filed July 18, 2005. Claims 1-38 are now

cancelled and new claims 69-100 have been added.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making
and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
contemplated by the inventor of carrying out his invention.

Claims 69-100 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed

invention.

Claims 69 and 77, recite "creating a network of models that connect the elements of value

to aspects of current operation financial performance". Applicant's specification discloses use of

"models" or "causal models" to provide connection between the elements of value and the

financial performance, however does not teach creating a plurality of network models.

Claim 74 recites, "wherein the network of models are causal network models". Applicant

specification teaches causal models, not causal network models.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 70 recites the limitation "the models of aspects of current operation financial performance". Claim 69 recites "use of a neural network model" and "creating a plurality of network models". There is insufficient antecedent basis for this limitation in the claim.

Claims 81 and 90, recites "wherein **the net contribution** of each element of value", however there is no contribution claimed before therefore, there is insufficient antecedent basis for this limitation in the claim.

Claims 69-100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 70 and 72, claim 70 recites, wherein the method further comprises using the models of aspects of current operation financial performance to complete analysis selected from the group consisting of identifying or creating ... It is unclear whether the "neural network model" or "the plurality of network models" further comprises of *completing analyses wherein the analyses are selected from the group consisting of identifying one or more changes ..., identifying a net value ..., creating one or more usable ..., or identifying one or more transaction ...* or the models that are used to complete analyses are selected from the group consisting of ..... It is unclear what method step is performed to further limit the independent claim 69.

Claims 77, 80 recite similar limitation, therefore, the rejection stated above applies.

Claim 82, recites, the program storage device of claim 77 that supports the identification

of a net percentage ... It is unclear what the claimed limitation is.

Claim 83, recites, wherein enterprise related transaction data are obtained from system

selected ... Since claim 77 recites transaction data, it is unclear whether this enterprise related

transaction data is the same as the transaction data for a commercial transaction claimed in claim

77 or whether the transaction data of claim 77 includes enterprise related transaction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 69-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over "How to

sort out the premium drivers of post-deal value" Bielinski, Daniel W. Mergers and Acquisitions:

Jul/Aug 1993, Vol. 28, Iss.1; pg. 33, 5 pgs (hereinafter Bielinski), further in view of "Computers

" Brown, Carol E, Coakley, James, Phillips, Mary Ellen, Management Accounting, Montvale,

May 1995 (hereinafter Brown).

Regarding claims 69, 70, 72-76, Bielinski teaches valuation tool for integrating

transaction data for a commercial enterprise in accordance with a common data dictionary; using

model to identify one or more value drivers (key factors or value drivers), such as growth, profit

margins, etc are varied systematically to test the sensitivity of the indicated business value to

each driver (pp1) ... assessing changes in one value driver at a time, elements of value selected

from the group consisting of brands, customers, employees intellectual capital, partner etc. (pp 1-2); identifying value drivers (sensitive analysis of past results offers clues to what can be done in the future and which value drivers should receive the most attention to achieve optimal rewards) (see pp 1); use of models to complete analyses … (see page 3). Bielinski teaches use of computerized models to estimate the value of a company and to guide them in setting purchase price. However, relatively few buyers take advantage of the capabilities of these models to enhance their due diligence and formulate strategies for increasing the cash flow and enhancing the value of their acquired targets… indeed as the art of modeling has progressed, new methodologies have been developed and applied to actual transaction in the market to sharply widen the utility and versatility of computer-based valuation value.   Bielinski does not explicitly teach neural network models using the indicators and a portion of the data in order to identify value driver candidates. Brown teaches valuation using neural network and training neural network models for aspects of financial performance using indicators (see pgs 1-2 and 5-6). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to implement Browns teaching by using neural network to analyze data, since it is well known that neural network increase score prediction accuracy and enable fast accurate score model implementation. Bielinski teaches financial performance selected from group consisting of revenue, expense, capital change etc., (see pp 2).

Regarding claim 71, Bielinski teaches identifying changes that optimize financial performance, however failed to teach the use of Markov Chain Monte Carlo model or use genetic algorithms. Official notice is taken that is old and well known in the art of finance to use

optimization tools. It would have been obvious to one of ordinary skill in the art to use such

model and other forms of optimization to maximize profit.

Regarding claims 77-100, Bielinski teaches aggregating enterprise related transaction

data from one or more enterprise management system, creating performance indicators,

analyzing historical and forecast data for aspects of financial performance using indication

algorithms and value driver candidates and creating impact summaries (see page 1-5). Bielinski

teaches using computerized models to estimate the value of a company, facilitating value

creation, analyzing historical data and forecast data, however does not teach training neural

network models for one or more aspects of financial performance using performance indicators.

Brown teaches valuation using neural network and training neural network models for aspects of

financial performance using indicators (see pgs 1-2 and 5-6). It would have been obvious to one

of ordinary skill in the art at the time of applicant's invention was made to implement Browns

teaching by using neural network to analyze data since it is well known that neural network

increase score prediction accuracy and enable fast, accurate score model implementation.

Bielinski teaches financial performance selected from the group consisting of revenue, expense,

capital change, cash flow etc., (see pgs 1&2). Bielinski teaches logged or recorded events for

transaction data (see pg. 2). Bielinski teaches element of value selected from the group consisting

of brands, customers, employees, etc., analyzes calculated for specific point in time, a net

contribution of each element of value (see pg 2).

Response to Arguments

Applicant's arguments filed July 18, 2005 have been fully considered but they are not

persuasive. Applicant's argument is directed to cancelled claims (claims 35-68).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RETTA YEHDEGA
PRIMARY EXAMINER

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